THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.24278 OF 2006

DATED 29th JANUARY, 2007

Between

Meruva Eswaraiah

... Petitioner

AND

The Revenue Divisional Officer, Rajampet, Kadapa District and another.

.... Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.24278 OF 2006

ORDER:

The petitioner was allegedly assigned agricultural land admeasuring Acs.1.00 in survey No.142/2 situated at Nagisettipalli Village of B.Mattam Mandal in Kadapa District. He alleges that the Tahsildar, Badvel, assigned land in his favour vide proceedings, dated 27.08.1983, and that he acquired the land and brought it under cultivation. He further alleges that he also applied for Pattadar Pass Book (PPB) and obtained the same from second respondent. In 2006, he suffered from chicken guniya and therefore, left for Kadapa for treatment. When he came back to the Village on 16.11.20006, he noticed foundation structures on the land. On enquiries, he came to know that at the instance of first respondent, third parties raised such construction, who were allegedly granted house site pattas in survey No.144/2.

The petitioner also alleges the assignment made in favour of the petitioner in respect of land in survey No.142/2 was never cancelled by the respondents. Therefore, he filed the present writ petition seeking a writ of Mandamus declaring the action of the respondents in interfering and meddling with the petitioner's land as illegal and arbitrary. He also seeks a consequential direction not to dispossess him.

The writ petition was initially listed on 22.11.2006. The learned Assistant Government Pleader for Revenue (General-A) brought to the notice of this Court that the land in survey No.142 is occupied by twenty (20) landless poor persons, in whose favour house site pattas were granted. Therefore, he was directed to file counter affidavit.

The Mandal Revenue Officer (MRO) filed counter affidavit on 22.01.2007. It is stated that the petitioner is not an agriculturist and is a weaver owning looms. He is not residing in B.Mattam Mandal, and that he never occupied the land in survey No.142/2. It is further stated that the land in survey No.142/2, which is adjacent to burial ground in survey No.144, was never occupied by the petitioner. The part of the land in survey No.144 was allotted as house sites and these persons might have encroached upon the land in survey No.142/2. The petitioner has now raised a dispute regarding the land as the value of the land has gone up. It is alleged that the documents like D-Form patta filed by the petitioner is false and fabricated. The petitioner has not filed any reply affidavit denying the counter allegations.

Learned counsel for the petitioner submits that the assignment of the land granted to the petitioner in 1983 was never cancelled. He placed strong reliance on the xerox copy of the patta, dated 27.08.1983 annexed to the writ petition as well as the xerox copy of the pattadar pass book in support of the contention that the petitioner is entitled for due process before being evicted from the land. **Per contra**, learned Assistant Government Pleader submits that the land has been assigned to twenty (20) landless poor persons, who have raised constructions and that the petitioner was neither in occupation nor in possession of the land. He has also produced the file from the Office of the MRO, B.Mattam, showing the allotment/assignment of house site pattas to poor persons.

The file produced before this Court contains a layout prepared by the Mandal Surveyor and approved by MRO, B.Mattam, in respect of survey Nos.144/2, 143/2 and 143 of Nagisettipalli village. The house site pattas in respect of this lay out were granted by the second respondent on 21.03.2000. Curiously, the petitioner filed writ petition only in November, 2006, alleging that he was away from his

village due to chicken guniya. Further, as alleged in the counter affidavit, there was no threat of dispossession or interference by the respondents. It is quite possible that the assignees of house sites might have interfered in the land in survey No.142/2, in which event, the petitioner has to seek remedy before civil Court and not in a writ petition. In the absence of any denial of the counter averments, this Court has to presume that the counter averments stand proved.

The writ petition is devoid of any merit and is accordingly dismissed. No costs.

(V.V.S.RAO,J)

29.01.2007.
pln